

UNITED STATES DISTRICT COURT
for
EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

U.S.A. vs. Columbus Cherry, Jr.

Docket No. 4:01-CR-26-1H

Petition for Action on Supervised Release

COMES NOW Dewayne L. Smith, probation officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Columbus Cherry, Jr., who, upon an earlier plea of guilty to 21 U.S.C. § 841(a)(1), Possession With the Intent to Distribute Cocaine Base (Crack), was sentenced by the Honorable Malcolm J. Howard, U.S. District Judge, on November 14, 2001, to the custody of the Bureau of Prisons for a term of 144 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for 60 months under the standard conditions adopted by the court and the following additional conditions:

1. The defendant shall participate as directed in a program approved by the probation office for the treatment of narcotic addiction, drug dependency, or alcohol dependency which will include urinalysis testing or other drug detection measures and may require residence or participation in a residential treatment facility.
2. The defendant shall abstain from the use of any alcoholic beverages, shall not associate with individuals consuming alcoholic beverages, shall not frequent business establishments whose primary product to the consumer is alcoholic beverages, and shall not use any medication containing alcohol without the permission of the probation office or a prescription from a licensed physician.
3. The defendant shall consent to a warrantless search by a United States Probation Officer or, at the request of the probation officer, any other law enforcement officer, of the defendant's person and premises, including any vehicle, to determine compliance with the conditions of this judgment.

On September 15, 2008, upon a motion of the defendant under 18 U.S.C. § 3582(c)(2), the sentence was reduced from 144 months to 120 months. Cherry was released from custody on January 29, 2010, at which time the term of supervised release commenced. On November 30, 2010, a Violation Report was submitted to the court advising that the defendant was charged in Edgecombe County, North Carolina, with Driving While License Revoked and Possession of an Open Container of Alcohol in the Passenger Area. Additionally, Cherry failed to notify the probation officer within 72 hours of these charges as required. He was verbally reprimanded for these violations, counseled about his actions, reminded not to associate with those consuming alcohol, and instructed not to drive until properly licensed. No other adverse action was taken, and the court agreed to continue supervision.

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RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS: On May 27, 2011, Cherry was charged in Edgecombe County, North Carolina, with Driving While License Revoked after being stopped by Officer J. Chandler of the Rocky Mount Police Department. Although this charge remains pending, the defendant admits guilt. As a sanction for this conduct, we are recommending that Cherry be placed on home detention for a period of 30 days. The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

1. The defendant shall abide by all conditions and terms of the home detention program for a period not to exceed 30 consecutive days. The defendant shall be restricted to his residence at all times except for pre-approved and scheduled absences for employment, education, religious activities, treatment, attorney visits, court appearances, court obligations or other activities as approved by the probation officer. The defendant shall wear an electronic monitoring device and follow electronic monitoring procedures specified by the probation officer.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

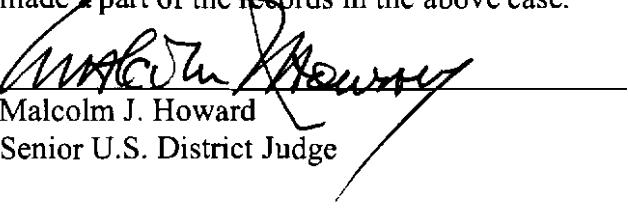
/s/Jeffrey L. Keller
Jeffrey L. Keller
Supervising U.S. Probation Officer

I declare under penalty of perjury that the foregoing is true and correct.

/s/Dewayne L. Smith
Dewayne L. Smith
U.S. Probation Officer
1760 Parkwood Blvd., Room 201
Wilson, NC 27893-3564
Phone: 252-237-0788
Executed On: June 8, 2011

ORDER OF COURT

Considered and ordered this 9th day of June, 2011, and ordered filed and made a part of the records in the above case.


Malcolm J. Howard
Senior U.S. District Judge